

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

# HOUSE BILL 2094

AN ACT

AMENDING SECTIONS 28-7009, 28-7681, 28-7682, 28-7683, 28-7684, 28-7685, 28-7686 AND 28-7687, ARIZONA REVISED STATUTES; RELATING TO HIGHWAY PROJECT ADVANCEMENT NOTES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-7009, Arizona Revised Statutes, is amended to  
3 read:

4 28-7009. Statewide transportation acceleration needs account:  
5 establishment; definition

6 A. The statewide transportation acceleration needs account is  
7 established as a separate account in the state highway fund. The account  
8 consists of all of the following, except that the source of monies in the  
9 fund shall not be a consent agreement or any type of negotiated settlement by  
10 any state or local agency or any donation made in place of a consent  
11 agreement or any type of settlement:

12 1. Monies appropriated by the legislature.

13 2. Monies designated for deposit in the account by the transportation  
14 board, a state agency or a political subdivision.

15 3. Monies received from the United States government for the purpose  
16 of accelerating transportation projects.

17 4. Monies received from political subdivisions, Indian tribes or this  
18 state or its agencies for the purpose of accelerating transportation  
19 projects.

20 5. Interest and other income received from investing monies in the  
21 account.

22 6. Gifts, grants, donations or other amounts received from any public  
23 or private source for deposit in the account for the purpose of accelerating  
24 transportation projects.

25 B. On notice from the transportation board, the state treasurer shall  
26 invest and divest monies in the statewide transportation acceleration needs  
27 account as provided by section 35-313, and monies earned from investment  
28 shall be credited to the account.

29 C. The transportation board may establish any subaccount in the  
30 statewide transportation acceleration needs account that the board determines  
31 is necessary or appropriate to carry out the purposes of this section.

32 D. If a governmental entity or a private person deposits monies in the  
33 statewide transportation acceleration needs account for acceleration of a  
34 specific project and the appropriate regional planning agency or council of  
35 governments in cooperation with the transportation board approves the  
36 project, the board shall designate the monies deposited by the governmental  
37 entity or private person solely for the project for which the monies are  
38 deposited.

39 E. Notwithstanding section 28-6993, and any other agreements entered  
40 into by the department of transportation for the distribution and expenditure  
41 of monies from the state highway fund, the transportation board shall not  
42 approve any expenditures from the statewide transportation acceleration needs  
43 account unless the expenditure is made in accordance with this section and is  
44 for the construction or reconstruction of freeways, state highways, bridges  
45 and interchanges that are contained in the regional transportation plan of a

1 county or the department's long-range statewide transportation plan pursuant  
2 to section 28-506. For the purposes of this subsection, a regional  
3 transportation plan is a twenty year comprehensive, performance based,  
4 multimodal and coordinated regional transportation plan that is approved for  
5 the county as provided by law and as amended or otherwise modified.

6 F. ~~Except as provided in sections 28-7010 and 28-7011,~~ Monies in the  
7 statewide transportation acceleration needs account shall be used only to pay  
8 for the following costs of a transportation project approved pursuant to this  
9 section:

10 1. EXCEPT AS PROVIDED IN SECTIONS 28-7010 AND 28-7011:

- 11 ~~1-~~ (a) Materials and labor.  
12 ~~2-~~ (b) Acquisition of rights-of-way for highway needs.  
13 ~~3-~~ (c) Design and other engineering services that are within the  
14 scope of engineering practice as provided in title 32, chapter 1.  
15 ~~4-~~ (d) Other directly related costs approved by the transportation  
16 board.

17 2. BEGINNING IN FISCAL YEAR 2006-2007, INTEREST COSTS RESULTING FROM  
18 BONDS, LOANS, NOTES OR OTHER OBLIGATIONS ISSUED OR INCURRED OR ADVANCES MADE  
19 BY OR ON BEHALF OF A CITY, TOWN OR COUNTY.

20 G. Monies in the statewide transportation acceleration needs account  
21 that are appropriated by the legislature and any interest earnings shall be  
22 allocated as follows:

23 1. For a county with a population of at least one million two hundred  
24 thousand persons for the area included in the regional planning agency's  
25 transportation improvement plan, sixty per cent.

26 2. For a county with a population of more than five hundred thousand  
27 persons but less than one million two hundred thousand persons for the area  
28 included in the regional planning agency's transportation improvement plan,  
29 sixteen per cent.

30 3. For all other counties, twenty-four per cent.

31 H. The regional planning agency in a county designated as a  
32 transportation management area shall establish a process for the review and  
33 approval of transportation projects eligible to receive monies from the  
34 statewide transportation acceleration needs account. As part of its request  
35 to the transportation board for monies, the regional planning agency shall  
36 ensure and submit evidence satisfactory to the board that any project costs  
37 not eligible for monies from the statewide transportation acceleration needs  
38 account are available and dedicated to the project. In all other counties,  
39 the department, in cooperation with the metropolitan planning organization or  
40 the council of governments that has the authority to approve transportation  
41 projects for the county, shall develop requests for expenditure of monies  
42 from the statewide transportation acceleration needs account. As part of the  
43 request to the transportation board for monies, the metropolitan planning  
44 organization or the council of governments for the department shall submit  
45 evidence satisfactory to the board that any project costs not eligible for

1 monies from the statewide transportation acceleration needs account are  
2 available and dedicated to the project.

3 I. On receipt of a request for monies from the statewide  
4 transportation acceleration needs account, the transportation board shall  
5 place the request on the agenda for the next regular business meeting of the  
6 board. The board shall review the request and, in cooperation with the  
7 regional planning agency, the metropolitan planning organization or the  
8 council of governments, approve the request or further modify the request  
9 before approval.

10 J. The transportation board shall not approve the release of any  
11 monies from the statewide transportation acceleration needs account for a  
12 transportation project unless the board verifies that all costs related to  
13 construction of the project are covered.

14 K. A CITY, TOWN OR COUNTY MAY USE MONIES THAT ARE IN THE STATEWIDE  
15 TRANSPORTATION ACCELERATION NEEDS ACCOUNT OR ANY SUBACCOUNT OF THE STATEWIDE  
16 TRANSPORTATION ACCELERATION NEEDS ACCOUNT, INCLUDING MONIES THAT WERE  
17 PREVIOUSLY APPROVED BY THE BOARD FOR A PROJECT AND THAT WERE NOT SPECIFICALLY  
18 DESIGNATED FOR INTEREST COSTS FOR THAT PROJECT, FOR INTEREST COSTS ONLY IF  
19 ALL OF THE FOLLOWING OCCUR:

20 1. THE REGIONAL PLANNING AGENCY IN A COUNTY DESIGNATED AS A  
21 TRANSPORTATION MANAGEMENT AREA RECOMMENDS THAT THE MONIES BE SPENT FOR  
22 INTEREST COSTS.

23 2. THE BOARD APPROVES THE REGIONAL PLANNING AGENCY'S RECOMMENDATION  
24 DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION.

25 3. THE CITY, TOWN OR COUNTY COMPLIES WITH THIS SECTION.

26 ~~K.~~ L. Monies in the statewide transportation acceleration needs  
27 account shall be used to supplement, not supplant, funding that would  
28 otherwise be made available for projects.

29 ~~L.~~ M. On or before July 1 of each year, the transportation board  
30 shall submit a report of its activities pursuant to this section to the  
31 governor, the president of the senate and the speaker of the house of  
32 representatives and shall provide a copy of this report to the secretary of  
33 state, the director of the joint legislative budget committee and the  
34 director of the Arizona state library, archives and public records.

35 ~~M.~~ N. A regional planning agency that receives monies from the  
36 statewide transportation acceleration needs account shall report on or before  
37 December 15 of each year to the senate and house of representatives  
38 transportation committees on approved projects and amounts expended for those  
39 projects.

40 ~~N.~~ O. For the purposes of this section, "project" means the  
41 construction or reconstruction of a specific portion of a freeway or state  
42 highway or a bridge or interchange or a portion of a bridge or interchange  
43 that is constructed at a single location.

1           Sec. 2. Section 28-7681, Arizona Revised Statutes, is amended to read:

2           28-7681. Definitions

3           In this article, unless the context otherwise requires:

4           1. "Excise taxes" means all unrestricted excise, transaction,  
5 franchise, privilege and business taxes, state shared sales and income taxes,  
6 fees for licenses and permits and state revenue sharing that are validly  
7 imposed by a ~~city or town~~ POLITICAL SUBDIVISION or contributed, allocated or  
8 paid to the ~~city or town~~ POLITICAL SUBDIVISION and not earmarked by the  
9 contributor OR THE POLITICAL SUBDIVISION for a contrary or inconsistent  
10 purpose.

11          2. "Highway project" means a highway project that is on the federal  
12 aid system, national highway system, ~~or~~ state route or state highway system  
13 and that is included in the department's state highway construction plan OR  
14 THE TRANSPORTATION IMPROVEMENT PLAN OF A REGIONAL ASSOCIATION OF GOVERNMENTS,  
15 except that a highway project does not include any local street improvements.

16          3. "Highway project advance agreement" means a written agreement  
17 entered into in accordance with ~~sections 9-500.17 and~~ SECTION 28-7677 AND  
18 EITHER SECTION 9-500.17 OR 11-269.03 between the department and a ~~city or~~  
19 ~~town~~ POLITICAL SUBDIVISION under which the department receives an advance  
20 payment from a ~~city or town~~ POLITICAL SUBDIVISION to accelerate right-of-way  
21 acquisition for, or design or construction of, a highway project and under  
22 which the department repays the advance with interest, if any, at an agreed  
23 on rate.

24          4. "Highway project advance revenues" means any revenues a ~~city or~~  
25 ~~town~~ POLITICAL SUBDIVISION receives under a highway project advance  
26 agreement, or as proceeds of highway project advancement notes, together with  
27 any earnings from the investment of the revenues.

28          5. "Highway project advancement notes" means notes authorized by this  
29 article.

30          6. "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY OR TOWN.

31          Sec. 3. Section 28-7682, Arizona Revised Statutes, is amended to read:

32          28-7682. Highway project advancement notes; pledge of excise  
33                 taxes

34          A. After entering into a highway project advance agreement that has  
35 been previously approved by the governing body of the ~~city or town~~ POLITICAL  
36 SUBDIVISION and by the transportation board, a ~~city or town~~ POLITICAL  
37 SUBDIVISION may issue and sell highway project advancement notes either  
38 competitively or by negotiation.

39          B. The principal, premium, if any, and interest on the highway project  
40 advancement notes shall be paid solely from either of the following:

41          1. Highway project advance revenues.

2. If provided by the ~~city or town~~ POLITICAL SUBDIVISION at the time of authorizing the issuance of the highway project advancement notes, other monies lawfully available for application to that purpose, including proceeds from the sale of other obligations of the ~~city or town~~ POLITICAL SUBDIVISION or excise taxes of the ~~city or town~~ POLITICAL SUBDIVISION.

C. A ~~city or town~~ POLITICAL SUBDIVISION may pledge its excise taxes to the repayment of principal, premium, if any, and interest on highway project advancement notes.

Sec. 4. Section 28-7683, Arizona Revised Statutes, is amended to read:

### 28-7683. Limitations

A. The aggregate outstanding principal amount of highway project advancement notes issued by a ~~city or town~~ POLITICAL SUBDIVISION and secured by highway project advance revenues shall not be more than the aggregate of all uncollected highway project advance revenues to be received by the ~~city or town~~ POLITICAL SUBDIVISION under highway project advance agreements UNLESS THE POLITICAL SUBDIVISION HAS PLEDGED OTHER MONIES LAWFULLY AVAILABLE FOR APPLICATION TO THAT PURPOSE TO COVER ANY AMOUNT IN EXCESS OF THE UNCOLLECTED HIGHWAY PROJECT ADVANCE REVENUES.

B. Highway project advancement notes shall have terms of ~~five~~ FIFTEEN years or less.

C. A ~~city or town~~ POLITICAL SUBDIVISION shall not have outstanding at any one time more than ~~one~~ THREE hundred million dollars aggregate principal amount of highway project advancement notes.

Sec. 5. Section 28-7684, Arizona Revised Statutes, is amended to read:

28-7684. Application of revenues; highway project advancement notes fund; payment of notes

A. After issuance of highway project advancement notes, revenues the ~~city or town~~ **POLITICAL SUBDIVISION** receives under the applicable highway project advance agreement shall be collected and, as provided by the ~~city or town~~ **POLITICAL SUBDIVISION** at the time of authorizing the issuance of the highway project advancement notes, shall be either:

1. Paid into a special fund to be known as the highway project advancement notes fund.

2. Applied to reimburse the ~~city or town~~ POLITICAL SUBDIVISION for monies previously advanced to the department under the highway project advance agreement to which the highway project advancement notes relate.

B. If any highway project advancement notes are outstanding, the ~~city or town~~ **POLITICAL SUBDIVISION** shall only use the monies paid into the highway project advancement notes fund for those highway project advancement notes to pay principal, ~~and~~ **AND PREMIUM, IF ANY**, on those highway project advancement notes.

1 C. Notwithstanding any other law, if the highway project advancement  
2 notes provide for such payment, this article authorizes the payment from the  
3 monies in the highway project advancement notes fund, when due or ON  
4 redemption in advance of maturity, of all principal, interest and redemption  
5 premiums on the notes.

6 Sec. 6. Section 28-7685, Arizona Revised Statutes, is amended to read:  
7 28-7685. Use of proceeds

8 A ~~city or town~~ POLITICAL SUBDIVISION shall use the proceeds from the  
9 sale of highway project advancement notes for payment of any of the  
10 following:

11 1. Advances to the department under the highway project advance  
12 agreement to which the highway project advancement notes relate.

13 2. Legal and financial costs and expenses incurred in issuing and  
14 administering the notes.

15 3. Reimbursement of the ~~city or town~~ POLITICAL SUBDIVISION for monies  
16 previously advanced to the department under the highway project advance  
17 agreement to which the highway project advancement notes relate.

18 4. If authorized by the ~~city or town~~ POLITICAL SUBDIVISION, payment of  
19 interest that accrues on the notes before maturity.

20 5. Payment of the principal, premium or interest on other obligations  
21 of the ~~city or town~~ POLITICAL SUBDIVISION to the extent that proceeds of  
22 those obligations were or are applied to the financing of the highway project  
23 to which the highway project advance agreement relates.

24 Sec. 7. Section 28-7686, Arizona Revised Statutes, is amended to read:  
25 28-7686. Refunding

26 A ~~city or town~~ POLITICAL SUBDIVISION may issue highway project  
27 advancement notes to refund highway project advancement notes previously  
28 issued and other obligations if the proceeds of the previously issued highway  
29 project advancement notes and other obligations were or are applied to the  
30 financing of the advance to which the highway project advance agreement  
31 relates.

32 Sec. 8. Section 28-7687, Arizona Revised Statutes, is amended to read:  
33 28-7687. Nature of highway project advancement notes; limited

34 obligation

35 A. Highway project advancement notes issued pursuant to this article  
36 are not general obligations of a ~~city or town~~ POLITICAL SUBDIVISION, any  
37 public officer or employee of a ~~city or town~~ POLITICAL SUBDIVISION or this  
38 state.

39 B. Highway project advancement notes are limited obligations of the  
40 issuer of the notes and are payable solely from highway project advance  
41 revenues received by the ~~city or town~~ POLITICAL SUBDIVISION and, if provided  
42 by the ~~city or town~~ POLITICAL SUBDIVISION at the time of authorizing the  
43 issuance of those highway project advancement notes, other monies lawfully  
44 available for application to that purpose and pledged to the payment of the  
45 principal, premium, if any, and interest on the notes.

1           C. A holder of a highway project advancement note may not compel the  
2 payment of highway project advance revenues to the ~~city or town~~ POLITICAL  
3 SUBDIVISION.

4           Sec. 9. Applicability

5           Notwithstanding Laws 2006, chapter 344, section 48, section 28-7009,  
6 Arizona Revised Statutes, as amended by this act, applies.